IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION - FOR TRANSFER No. 1040 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HEMA SANJAY RANA
Versus
SANJAY PRAHLADBHAI RANA

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Appearance :
MR KASHYAP R JOSHI for Applicant.
MR AY OZA for MR TS NANAVATI for Opponent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 05/07/2006

ORAL JUDGMENT

RULE. Mr.A.Y.Oza for Mr.T.S.Nanavati, learned advocate waives service of rule on behalf of the opponent. With the consent of the parties, matter is taken up for final hearing today.

By filing this application, the applicant has prayed that Hindu

Marriage Petition No.39/2004 pending before learned Civil Judge (S.D.), Navsari may be transferred to Bharuch Court, as the applicant is residing in Bharuch and she finds it difficult to travel from Bharuch to Navsari for attending the aforesaid case.

Ms. Shital Mudaliar, learned advocate for the applicant submitted that the applicant is facing financial difficulty as her minor daughter is staying with her. She further submitted that the husband of the applicant is not paying her any maintenance and, therefore, it is difficult for her to go to Navsari for attending the aforesaid case.

On the other hand, Mr.A.Y.Oza, learned advocate for the opponent submitted that his client has no objection if Hindu Marriage Petition No.39/2004 pending before learned Civil Judge (S.D.), Navsari is transferred to Bharuch District Court. He, however, submitted that the applicant – wife has also filed Hindu Marriage Petition No.76/2004 for restitution of conjugal rights, which is pending before the Bharuch Court, therefore, both the aforesaid Hindu Marriage Petitions may be ordered to be heard together at Bharuch.

Ms.Shital Mudaliar, learned advocate for the applicant states that she has no objection if both the proceedings, i.e., Hindu Marriage Petition No.39/2004 pending before Navsari Court and Hindu Marriage Petition No.76/2004 pending before Bharuch Court, are consolidated and heard together at Bharuch Court.

It seems that opponent – husband has also filed an application against the order of maintenance before Navsari Court being Civil Revision Application No.02/2006. Mr.Oza, learned advocate for the opponent submitted that revision application against such order is not

maintainable and, therefore, his client is going to withdraw aforesaid Civil Revision Application by filing appropriate purshis before Navsari Court reserving his liberty to file appropriate proceedings in accordance with law before appropriate Court challenging the order of maintenance.

Since the opponent is going to withdraw Civil Revision Application No.02/2006 pending before Navsari Court, now there is no question of transferring the same to Bharuch Court. After withdrawal of Civil Revision Application, as aforesaid, if any proceedings are taken out by the opponent, at that stage, it will be open for the applicant to revise her request for transfer of that case to Bharuch Court.

Under these circumstances, Hindu Marriage Petition No.39/2004 pending before learned Civil Judge (S.D.), Navsari is ordered to be transferred to the District Court, Bharuch. Papers of Hindu Marriage Petition No.39/2004 may be transferred from Navsari Court to Bharuch Court without any delay. On such transfer learned Principal District Judge, Bharuch may assign Hindu Marriage Petition No.39/2004 as well Hindu Marriage Petition No.76/2004, which is pending before Bharuch Court, to the appropriate Court taking such matters and both these matters may be heard and decided together by the same Judge.

In view of what is stated herein above, this Misc. Civil Application is allowed. Rule is made absolute with no order as to costs. Writ to be sent to the learned Principal District Judge, Navsari as well as learned Principal District Judge, Bharuch forthwith.

(P.B.MAJMUDAR, J.)

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